

KINCARDINE AND MEARNS AREA COMMITTEE

TUESDAY, 26TH MARCH, 2024

Present: Councillors S Dickinson (Chair), G Carr (Vice-Chair), W Agnew, D Aitchison, D Black, S Burnett, L Carnie, A Evison, K Stelfox, M Sullivan, A Turner and C Victor

Officers In Attendance: Tim Stephen (Area Manager (Kincardine & Mearns), Morag Stevenson (Senior Solicitor), Gregor Spence (Senior Planner), Diane Henderson (Project Officer), Paul Berrisford (Scottish Fire & Rescue Service)

1 SEDERUNT AND DECLARATION OF MEMBERS' INTERESTS

In accordance with the Councillors' Code of Conduct the following statements were made: –

Item 6

Councillor Turner declared a Transparency Statement by virtue of knowing the applicant from the oil and gas industry, however having applied the objective test, he concluded that as the connection was remote there was no interest to declare, and he would remain and take part in the determination of the item.

Item 7

Councillor Evison declared a Transparency Statement by virtue that she had previously not taken part in the determination of the Asset Transfer for Mill of Benholm. However, having applied the objective test, she concluded that there was no interest to declare, and she would remain and take part in the determination of the item.

Councillor Dickinson declared a Transparency Statement by virtue of being a member of the Town Centre Improvement Group, however having applied the objective test, she concluded she would remain and take part in the determination of the item.

Councillor Carr declared a Transparency Statement by virtue of having a long-standing connection to Mill of Benholm, however having applied the objective test, he concluded he would remain and take part in the determination of the item.

Item 8

Councillor Dickinson declared a Transparency Statement by virtue of attending the Tolbooth Museum Trust AGM and receives their Newsletter, however having applied the objective test, she concluded that there was no interest to declare, and she would remain and take part in the determination of the item.

2A PUBLIC SECTOR EQUALITY DUTY

In taking decisions on the undernoted items of business, the Committee **agreed**, in terms of Section 149 of the Equality Act 2010:-

(1) To have due regard to the need to:-

- (a) eliminate discrimination, harassment and victimisation;
- (b) advance equality and opportunity between those who share a protected characteristic and persons who do not share it; and
- (c) foster good relations between those who share a protected characteristic and persons who do not share it, and

to consider, where an Integrated Impact Assessment has been provided, its contents and to take those into consideration when reaching a decision.

3 MINUTES OF THE MEETING 5 MARCH 2024

There had been circulated and was **approved** the minutes of the Meeting of 05 March 2024, subject to the following amendments at Item 9:

Page 8 (paragraph 5) - Police Scotland representation amended to *“a significant impact on policing resources would be expected”*.

Page 9 (paragraph 7) – change to *‘He provided an overview of community event planning and the process which other community groups follow, commented that the Notice allows for minimal stewarding compared to other local events planned for the town and stated that no event nor risk assessment plan had been provided for this public procession’*.

Page 10 (bullet point 4) - amended to *‘Would Parade organisers accept recommendation 7 (Appendix 2) regarding playing of music - not within 100m of a place of worship – confirmed yes.’*

Page 12 (No 7 “Protection of Health and Morals”) - amend to *‘The fear and anxiety being caused to members of the local community was having a negative impact upon the mental health of those persons’*.

Additional reason to be added stating *‘The Organiser’s right of assembly is not an absolute right and should be balanced against the competing rights of others. Those who live, work, shop, trade and carry on business in the area have rights under Article 8.*

4 STATEMENT OF OUTSTANDING BUSINESS

A report by the Director of Environment and Infrastructure Services was circulated detailing the items of outstanding business as at 26 March 2024.

The Committee **agreed** to note the items of outstanding business as at 26 March 2024.

5 SCOTTISH FIRE AND RESCUE SERVICE PERFORMANCE REPORT Q2 (1ST JULY - 30TH SEPTEMBER 2023) & Q3 (1ST OCTOBER - 31ST DECEMBER 2023)

A joint report by the Local Senior Officer for Scottish Fire and Rescue Service and the Director of Business Services had been circulated providing details of the performance from July to December 2023. The Station Commander gave an

overview of the performance and highlighted areas of particular interest in Kincardine & Mearns. Committee sought clarification on categorisation of call outs; data sharing protocols; non-fire emergencies; home fire safety visits; battery storage units and road safety initiatives/use of virtual reality headsets.

The Committee **agreed** to note the content of the report.

6 FULL PLANNING PERMISSION FOR ERECTION OF 5 MODULAR UNITS FOR SHORT TERM LETTING ACCOMMODATION AT BOGENRAITH EQUESTRIAN LTD, DURRIS APP/2023/1809

There had been circulated a report by the Director of Environment and Infrastructure Services which sought consideration of an application for Full Planning Permission for erection of 5 modular units for short-term letting accommodation.

The Senior Planner provided an overview of the application and advised the proposed layout and design did not meet with policy, however, as the accommodation would be primarily operated within the bounds of the established equestrian business, the Planning Service were able to support the development as a departure from Policy for a temporary period of 3 years. This would enable the business to accommodate the requirements of existing users until a site-specific layout and design were agreed with the Planning Service in accordance with Policy.

During discussion Members raised queries regarding site layout; visibility splays; sought re-assurance on passing places and land ownership; queried if an extension of the temporary planning condition to 5 years as opposed to 3 would be agreeable for Planning and the applicant.

Following the debate Councillor Turner, seconded by Councillor Black, moved the application be granted in line with report recommendations subject to a change at Planning Condition 1. where the temporary condition is extended to 5 years which would allow the business time to grow and submit a planning application which complies with Policy.

Councillor Agnew, seconded by Councillor Carnie, moved as an amendment that the application be granted in line with the report recommendations.

The members voted as follows:

Motion 10 Councillors Aitchison, Black, Burnett, Carr, Dickinson, Evison, Sullivan, Turner, Victor

Amendment 2 Councillors Agnew and Carnie

Therefore, Committee **agreed** to grant Full Planning Permission subject to the following conditions:

1. Planning permission is hereby granted for a temporary period 5 years (cessation date) from the date of this decision. Prior to the cessation date, the application site shall be cleared of all works and development approved under the terms of this permission (including any subsequent ancillary works, infrastructure, fixtures, fittings and any temporary developments permitted under Class 14 of the Town

and Country Planning (General Permitted Development) (Scotland) Order 1992) and reinstated.

Reason: To enable the impact of the temporary development on the amenity of the surrounding area to be reviewed and to ensure the appropriate restoration of the site.

2. No development in connection with the permission hereby granted shall commence and the access hereby approved shall not be brought into use unless visibility of 215 metres in both directions along the channel line of the public road has been provided from a point 2.4 metres measured at right angles from the existing edge of the carriageway surface along the centre line of the approved new access in accordance with the Council's Standards for Road Construction Consent and Adoption. The visibility splays shall be physically formed on the ground and any existing fences, walls, hedges or other means of enclosure or obstructions within the splays shall be removed and relocated outwith the splays in accordance with the approved plans. Once formed, the visibility splays shall be permanently retained thereafter and no visual obstruction of any kind shall be permitted within the visibility splays so formed.

Reason: To enable drivers of vehicles using the access to have a clear view of other road users and pedestrians in the interests of road safety.

3. The private access road shall not come into use until a passing place measuring 12m x 3m with 3m splays has been formed as shown on drawing reference 1595-502 Rev C in accordance with condition 3 of planning permission reference APP/2019/1269. Once formed, the passing place shall be permanently retained thereafter.

Reason: In the interests of road and public safety

4. The development hereby approved shall not be occupied unless off-street parking for 5 cars has been provided within the site and surfaced in hard standing materials. Once formed, the parking spaces shall be permanently retained thereafter.

Reason: to ensure that the flow of traffic is not obstructed by parked cars in the interest of road and public safety.

Reason for Decision

The planning authority considers that the application is for a development that is not in accordance with the Aberdeenshire Local Development Plan 2023.

The proposed development is for a tourism accommodation facility that cannot be considered well related to an allocated settlement and displays a design that is not in keeping with the Aberdeenshire countryside and is inconsistent with the qualities of successful places. The proposed accommodation would be primarily operated within the bounds of the established equestrian business (Bogenraith Equestrian), the Planning Service is able to support the development as a departure from Policy B3: Tourism Facilities and Accommodation of the Aberdeenshire Local Development Plan 2023 for a temporary period of 3 years. This would enable the business to accommodate the requirements of existing users until a site-specific layout and

design is agreed with the Planning Service in accordance with Policy 14: Design, quality and place of National Planning Framework 4 and Policy P1: Layout, siting and design of the Aberdeenshire Local Development Plan 2023.

7 COASTAL COMMUNITIES FUND 2023/24 - KINCARDINE AND MEARN'S AREA COMMITTEE ALLOCATION

There had been circulated a report by the Director of Environment and Infrastructure Services which sought the agreement of the Area Committee to disburse the sum of £94,404 Coastal Communities Funds allocated to the Kincardine and Mearns area for the financial year 2023/24.

The Area Project Officer provided an overview of the report and the funding applications, she highlighted that due to the funding being received late in the financial year the Scottish Government had agreed that funds could be carried over into 2024/25 allowing communities a full year to spend.

Members queried status of the quotes for the Craw's Nest project and plans for any project underspends across all the projects supported.

The Committee **agreed**:

1. Funding allocations to –
 - Mill of Benholm car park - £43,877
 - Benholm & Johnshaven Heritage Society - £2,026.06
2. To delegate authority to the Kincardine and Mearns Area Manager, following consultation with the Area Chair and Vice-Chair, to approve the allocation of the remaining funds of £48,500.94 to the Craw's Nest project and the litter campaign once costs are known.
3. If there are underspends in the above projects and a surplus balance remaining that further applications come back to Area Committee. This can include further applications from Mill of Benholm (taking note of £50k award limit and 90% project funding limit in the criteria which could be reviewed on exception).

8 ASSET TRANSFER REQUEST - TOLBOOTH BUILDING, STONEHAVEN

The Chair confirmed that a request to speak had been received for the item, Committee agreed to hear from Dennis Collie and Douglas Cusine, Trustees of the Tolbooth Association.

A report by the Director of Environment and Infrastructure Services was circulated advising Members that an Asset Transfer request has been received for the Tolbooth Building in Stonehaven.

The Area Manager introduced the item and provided an overview of the report and options for recommendation therein.

Members sought clarification if the courtyard space was included in the Asset Transfer; value of income from the existing tenant; budget owner (confirmed LLA); if

income was reinvested back into the Tolbooth building; current maintenance arrangements and costs; estimated value of the asset; confirmed the value of the historic fund at £55,000; building survey works and priorities; if the asset were to be transferred who would be responsible for the works and in what condition is the building signed over; time period between decision and hand over; and in the scenario that the trust fails what would happen to the Tolbooth building.

The Chair invited Trustees Dennis Collie and Douglas Cusine to address Committee. The Trustees provided an overview of their application and addressed some of the points contained in the committee report.

Members sought re-assurance from the Trustees that they had thought about succession planning, the Trustees advised they had recently taken on graduate students, were creating links with local schools and would look to buy in specialist expertise if required.

The Trustees confirmed they would honour the existing restaurant lease and would re-invest funds into maintenance and futureproofing of the building.

The Committee **agreed** to:

1. Refer the Asset Transfer request from the Stonehaven Tolbooth Association for the transfer of the Tolbooth building (whole building including courtyard) to Business Service Committee for determination. Committee supported Asset Transfer application based on the benefits of preservation of the heritage building; re-investment; and future proofing of the asset; promoted tourism; economic development; and regeneration within the town.
2. Recommend to Business Services Committee that the purchase price should be set at a nominal sum of £1 which takes into account the community benefit and annual running costs of the museum.
3. Recommend to Business Services Committee that delegated authority is agreed for the Area Manager to instruct Legal & People to conclude the transfer of the whole building to Stonehaven Tolbooth Association.

9 KINCARDINE AND MEARN'S AREA COMMITTEE BUDGET 2024/2025

A report by the Director of Environment and Infrastructure Services was circulated seeking agreement for the 2024/25 Area Committee Budget Criteria and Application Form.

The Area Committee Officer introduced the report and provided an overview of the proposed Criteria and Application Form for 2024/25 and highlighted that the Area Committee Budget for 2024/25 stands at £71,200.00.

During discussion Members proposed removing the reference to strategic priorities from the Criteria, enhancing the focus on Place, reducing the project maximum for applications to £6,000 from £8,000 and bringing the voluntary in kind living wage in line with the Scottish Living wage at £12.00 per hour.

Councillor Evison, seconded by Councillor Stelfox, moved that the proposed Criteria for 2024/25 be amended to remove the link to the Councils Strategic Priorities, enhance the focus on Place to include Local Place Plans, reduce the project maximum to £6,000 and increase the voluntary in kind wage to the Scottish Living Wage at £12.00.

Councillor Carr, seconded by Councillor Turner, moved an amendment that the proposed Criteria for 2024/25 retains the link to the Councils Strategic Priorities, includes the reference to Local Place Plans, reduces the project maximum to £6,000 and increases the voluntary in kind wage to the Scottish Living Wage at £12.00.

The members voted as follows:

Motion 6 Councillors Aitchison, Black, Evison, Stelfox, Sullivan, Victor

Amendment 6 Councillors Agnew, Burnett, Carnie, Carr, Dickinson, Turner

Chair had the casting vote.

Therefore, Committee **agreed** the Criteria and Application Form for 2024/25 subject to Local Place Plans being added at Item 2, maximum payment limit for projects being reviewed to £6,000 and increase the voluntary in kind wage to the Scottish Living Wage at £12.00.